



**UNITED STATES DEPARTMENT OF COMMERCE**  
**United States Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/4951,118	06/10/99	RODINANT	W 2004010

620696  
Qualcomm Incorporated  
Patents Department  
5775 Morehouse Drive  
San Diego CA 92121-1714

WM41/1814

EXAMINER

VO, N

ART UNIT

PAPER NUMBER

2682

DATE MAILED:

08/14/00

23

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Advisory Action**

Application No.

08/858,245

Applicant(s)

PADOVANI, ROBERTO

Examiner

Nguyen T Vo

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 July 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see the newly-added claimed limitation "to optimize said cellular network" in claim 10.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 4-23.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments filed 07-31-2001 have been fully considered but they are not persuasive.

First of all, claim 10 will not be entered because it raise new issues that would require further consideration and/or search (see the newly-added limitation "to optimize said cellular network"). Applicants' argument with respect to claim 10 are thus moot.

Regarding the rejection to claims under 35 USC 112, first paragraph, applicants argue that the rejection is improper because the three conditions apply only to the transmission of the pilot strength measurement message and does not apply to the saving of pilot strength measurements. The examiner, however, disagrees. Since only pilot strength measurements which satisfy three condition are transmitted to the base station and saved in the database, these three condition also apply to the saving of pilot strength measurements. More specifically, according to page 9 lines 29-32 of the specification, the Pilot Strength Measurement Message transmitted from the mobile station 2 to the base station to be saved in PSMM database 21 includes all pilot with **energy greater than  $T_{add}$**  and all members of the current active set who's measured pilot energy **has not fallen below  $T_{drop}$**  for more than a predetermined time period. Therefore, all pilot with energy **less** than  $T_{add}$  and all members of the current active set who's measured pilot energy **has fallen below  $T_{drop}$**  for more than a predetermined time period **will not be saved**. Therefore, it is clear that page 9 lines 29-32 of the specification that applicant relies on does not disclose the limitations "regardless of the

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measurement value" as recited in claims 4, 11, 17 and "regardless of the strength of pilot" as recited in claims 16, 22.

For the foregoing reasons, the examiner contends that the rejection to claims is proper.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen T Vo whose telephone number is (703) 308-6728. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chang can be reached on (703)308-6739. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for all communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Nguyen Vo

August 13, 2001



**NGUYEN T. VO**  
**PRIMARY EXAMINER**